THE MIGRATION DEPARTMENT
UNDER THE REPUBLIC OF LITHUANIA'S MINISTRY OF THE INTERIOR

State budgetary agency L.Sapiegos g. 1, LT-10312 Vilnius Tel.: (8 5) 271 7119 / 271 7236
Fax (8 5) 271 8210 Email: mdinfo@vrm.lt Information is collected and stored in the Registry of legal persons. Code 188610666

To the Vilnius Regional Administrative Court
Žygimantų g. 2, LT-01102 Vilnius

April ?, 2010 Nr. (15/7–3) 10K-?
Į March 20, 2010 Nr. I-1548/2010

Declarant:
Grant Arthur Gochin
10900 Winnetka Avenue Chatsworth
CA 91311 United States of America
Location for submitting procedural documents:
Law office Juozumaitė and partners
Kražių g. 4, Vilnius

Defendant:
The Migration Department under the Republic of Lithuania's Ministry of the Interior
L. Sapiegos g. 1, LT-01122 Vilnius

A REPLY TO AN APPEAL OF A DECISION REGARDING RETENTION OF THE RIGHT TO REPUBLIC OF LITHUANIA CITIZENSHIP

The Migration Department under the Republic of Lithuania's Ministry of the Interior (in what follows - the Migration Department) in accord with its authority considered Grantas Arthuras Gochinas's appeal of the Migration Department's Division on Citizenship Matters decision of January 21, 2010 Nr. (15/3-11) 8P-179 "Regarding Grantas Arthuras Gochinas's (Grant Arthur Gochin's) retention of the right to Republic of Lithuania citizenship", in which it was decided that Grantas Arthuras Gochinas (Grant Arthur Gochin) did not retain the right to Republic of Lithuania citizenship because there were insufficient documents to prove the family relationship of G. A. Gochinas and Samuilas (Samuelis) Gochinas (the passport information page provided did not indicate Samuilas (Samuelis) Gochinas's date and place of birth).

The Migration Department does not agree with this appeal for the reasons given below.

We do not agree with assertions set out by the declarant in the appeal that the appealed Migration Department's decision is unsound, unsubstantiated, and not in accord with legal regulations or the principles of reason and integrity. The said assertions of the declarant are unfounded and not in accord with reality.

Contrarily, the appealed Migration Department decision is made on the basis of existing laws and thus is sound. The appealed decision gives a clear reason - Grantas Arthuras Gochinas did not retain the right to Republic of Lithuania citizenship because there are insufficient documents to prove the family relationship of G. A. Gochinas and Samuilas (Samuelis) Gochinas.

It must be emphasized that it is the declarant who bases his appeal and requests that the Migration Department's Division of Citizenship Matters decision of January 21, 2010 be annulled, merely on the

basis of his personal beliefs, and not principles of law.

It must be noted that article 89 of the Republic of Lithuania's law for the judicial process of administrative cases (Bulletin 1999, Nr. 13-308; 2000, Nr.85-2566) (in what follows - the Administrative case judicial process law) which determines, in which circumstances an appealed decision must be annulled. In the said article it is specified that an appealled decision (or its part) must be annulled if it is:
* unlawful in principle, that is, its substance conflicts with laws of higher authority;
* unlawful because it was made by an administrative entity not having the proper authority;
* unlawful because basic procedures were violated in making it, especially rules intended to ensure an objective appraisal of all of the circumstances and the soundness of the decision.

The appealed decision of the Migration Department's Division on Citizenship Matters is made on the basis of existing laws, made by an administrative entity with authority (article 24, part 4 of the Republic of Lithuania's citizenship law (Bulletin, 2002, Nr. 95-4087; 2008, Nr. 83-3293) (in what follows - the Law), no procedures were violated in making it, and so there is no basis to annul it.

We note that article 17, part 1, paragraph 1 specifies that the right to Republic of Lithuania citizenship is retained indefinitely by individuals who had Lithuanian citizenship prior to June 15, 1940, and their children, grandchildren and great grandchildren, living in other states.

The making of requests in matters of Republic of Lithuania citizenship, the preparation of Republic of Lithuania citizenship documents and the procedure for making decisions regarding Republic of Lithuania citizenship are set by the rules for the preparation of Republic of Lithuania citizenship documents, confirmed on March 29, 2006 by the Republic of Lithuania's Government's decision Nr. 312 (Bulletin, 2006, Nr. 36-1290, 2009, Nr. 60-2355) (in what follows - the Rules).

Paragraph 14 of the Rules stipulates that a request to retain the right of Republic of Lithuania citizenship must be accompanied by documents, or their copies, confirming the family relationship with an individual who had Lithuanian citizenship prior to June 15, 1940, if the request to retain the right for Republic of Lithuania citizenship is made by the child, grandchild or great grandchild of an individual who had Lithuanian citizenship prior to June 15, 1940.

It is to be noted that on February 24, 2005, the declarant Grantas Arthuras Gochinas had submitted a request to the Migration Department for Republic of Lithuania citizenship and a request to exercise the right to Republic of Lithuania citizenship.

It should be mentioned that in deciding matters of Republic of Lithuania citizenship and of exercising the right to Republic of Lithuania citizenship, the declarant was required to submit, along with the request, documents proving a family relationship with the individual who had Lithuanian citizenship prior to June 15, 1940.

The Migration Department's Division on Citizenship Matters, having considered Grantas Arthuras Gochinas's request for Republic of Lithuania citizenship, on June 18, 2007 made a decision Nr. (15/3-11) 8P-675, by which it was decided to recognize that Grant Arthur Gochin is not a Republic of Lithuania citizen because there are insufficient documents to prove the family relationship of G. A. Gochinas and Samuilas (Samuelis) Gochinas (Samuilas (Samuelis) Gochinas's date and place of birth is not indicated in the passport information page provided).

Grantas Arthuras Gochinas appealed the said Migration Department's Division on Citizenship Matters decision to the Vilnius Regional Administrative Court.
It is to be noted that the declarant based his right to be recognized a Republic of Lithuania citizen on these proofs: a copy of the birth registry where it is written that Grant Arthur Gochin was born on November 2, 1963 in Port Elisabeth, to parents Harol Gochin, 30 years old, born in Port Elisabeth, and Sandra Joan Smollan, 23 years old, born in Port Elisabeth; a copy of a document regarding his father's birth, where it is written that Chone Hessel Gochin, who changed his names to Harold, was born on June 13, 1933 in Middle Avenue, to parents Samuel Gochin, 31 years old, born in Lithuania, and Dora Rummel, 30 years old, born in Latvia; a copy of a Šiauliai city and district chief's passport division's document, in which it is written that a passport was issued to Samuelis Gochinas; medical documents, in which Samuelis Gochinas is mentioned; photographs; an explanation from Lithuania's military history society's chairman that the individual in the said photographs is wearing a uniform of the army of the Republic of Lithuania.

On September 18, 2008, Vilnius Regional Adminstrative Court made a decision to dismiss declarant Grant Arthur Gochin's appeal.

The judicial panel, having considered the case, determined that there is a lack of documents confirming the family relationship of the declarant and Samuilas (Samuelis) Gochinas. The court determined that the administrative case does not include Samuilas (Samuelis) Gochinas's birth certificate, which would irrefutably confirm his family relationship with Grant Arthur Gochin. The certificate specifying Samuilas (Samuelis) Gochinas's birth in Lithuania is a document, reflecting information about certain events, is received from unknown sources, and so in principle may not be recognized as written proof which is reliable and not raising legal ambiguities.

In the case there is information that Samuilas Gochinas, living in Papilė, was issued a passport, however the document does not indicate this individual's date and place of birth, and so it does not prove that the passport was indeed issued to the declarant's grandfather.

In the course of the judicial investigation, the declarant's representative submitted Mervyn Michael Zelichov's, Esther Barsel's and Chone Hessel (Harr) Birin's explanations that Samuelis Gochinas was born in 1902 in Papilė, Lithuania. The court assessed the explanations critically because the information they provided was not confirmed by the requisite proofs (for example, a birth certificate or analogous court decision regarding the determination of a fact of legal significance).

The photographs submitted along with the declarant's appeal likewise do not allow a conclusion to be drawn about the soundness of the declarant's appeal, as from the latter it is unclear whether the individual portrayed is Samuilas (Samuelis) Gochinas. These photographs merely confirm the fact the individual portrayed in them, wearing a military uniform, is possibly a citizen of the Republic of Lithuania, which was indeed affirmed in the Lithuania military history society's chairman's written explanation.

In the Lithuanian State History Archive's certificate of September 4, 2007 it is indicated that the said archive did not receive the Papilė Jewish comunity's registry for 1900-1905 for safekeeping, and so cannot issue a certificate regarding Samuelis Gochin's birth. Thus, the said certificate is legally inconsequential with regard to the appraisal of the proofs.

The respective medical documents do not confirm the family relationship of the individual they refer to - Samuilas Gochinas - with Grant Arthur Gochin. Other proofs in the case (among them - junior

researcher's E. Bendikaitė's explanation of January 20, 2006) also do not permit of any other conclusion but that which the Migration Department made in the appealed decision.
The panel, upon exhaustively investigating the totality of the assembled proofs, judges that the factual information gathered in the administrative case is more permitting of concluding that the Migration Department made a sound decision and did not have a basis to assert that there were sufficient documents to prove the family relationship of Samuilas (Samuelis) Gochinas and the declarant (Article 57 of the Administrative case judicial procedure law).

It should be noted that article 58 part 2 of the Administrative case judicial procedure law determines that facts established by a valid court decision in one administrative or civil case are not to be proven anew in considering other administrative cases in which the same individuals are participating.

It must be emphasizd that Grantas Arthuras Gochinas did not append to his June 22, 2009 request to retain the right to Republic of Lithuania citizenship any new documents confirming a family relationship with an individual who had Republic of Lithuania citizenship prior to June 15, 1940, and therefore the Migration Department's Division on Citizenship Matters made a valid and sound decision in which it was decided that Grantas Arthuras Gochinas (Grant Arthur Gochin) did not retain the right to Republic of Lithuania citizenship.

The Migration Department, taking into consideration what has been set out above, requests to dismiss Grantas Arthuras Gochinas's (Grant Arthur Gochin's) appeal of March 16, 2010 as unsound and to leave in force the Migration Department's Division on Citizenship Matters decision of January 21, 2010 Nr. (15/3-11) 8P-179.

APPENDED: 36 pages.

Director
Almantas Gavėnas

Ramunė Žūklijaitė, tel. (8 5) 271 8643; email: ramune.zuklijaite@vrm.lt